

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DAQUAN BECK and
DAIAHNEILL BECK, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

PATRICE BECK,

Respondent-Appellant,

and

JOHNELL HARRIS and JOHN E. BALDWIN,

Respondents.

UNPUBLISHED

July 17, 2007

No. 275123

Macomb Circuit Court

Family Division

LC No. 2005-059384-NA

Before: White, P.J., and Zahra and Fort Hood, JJ.

PER CURIAM.

Respondent Patrice Beck appeals as of right from an order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

Respondent's only issues on appeal relate to the trial court's exercise of jurisdiction over the minor children, following a proceeding on October 21, 2005. However, respondent did not file a direct appeal from the initial dispositional order, which was entered on February 16, 2006. See MCR 3.993(A)(1). Accordingly, she may not now collaterally attack the trial court's exercise of jurisdiction in this appeal by right from the trial court's later order terminating her parental rights. *In re Hatcher*, 443 Mich 426, 444; 505 NW2d 834 (1993); *In re Gazella*, 264 Mich App 668, 679-680; 692 NW2d 708 (2005).

Respondent also argues that her attorney was ineffective for failing to challenge the trial court's exercise of jurisdiction based on alleged procedural errors at the adjudication stage and the absence of proper notice. To prevail on such a claim, respondent must show that trial counsel's performance was deficient, i.e., that "counsel's performance fell below an objective standard of reasonableness, and that the representation so prejudiced" her that it denied her a fair trial. To prove prejudice, respondent must show "a reasonable probability that, but for counsel's

unprofessional errors, the result would have been different.” *In re CR*, 250 Mich App 185, 198; 646 NW2d 506 (2002). Because respondent did not raise this issue below, our review is limited to mistakes apparent from the record. *People v Snider*, 239 Mich App 393, 422; 608 NW2d 502 (2000).

To acquire jurisdiction, the court was required to determine by a preponderance of the evidence that the children came within the statutory requirements for jurisdiction, MCL 712A.2(b). *In re PAP*, 247 Mich App 148, 152-153; 640 NW2d 880 (2001). Procedurally, the court was required to make this determination at a trial pursuant to MCR 3.972, or by a plea of admission or no contest under MCR 3.971. *Id.* at 153.

An adjudication trial was scheduled for October 21, 2005. The record contains a verified return of service indicating that on October 1, 2005, respondent was personally served, at the West Philadelphia address she provided two weeks earlier, with a summons notifying her of the October 21 trial date. Thus, the record does not support respondent’s claim of a deficiency in service under either MCR 3.920(B) or MCL 712A.13. Furthermore, although respondent failed to appear at the scheduled trial on October 21, the court received testimony from Jeanne Mitchell, a Protective Services worker, that sufficiently established a basis for the court’s jurisdiction under MCL 712A.2(b). Because a procedural error has not been shown, respondent has not established a basis for concluding that her attorney was ineffective.

Affirmed.

/s/ Helene N. White
/s/ Brian K. Zahra
/s/ Karen M. Fort Hood